

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 1, SUBREGION 34**

FIRST STUDENT, INC. Employer and BRADFORD A. MAYER Petitioner and INTERNATIONAL BROTHERHOOD OF TEAMSTERS LOCAL 251 Union	Case 01-RD-238462
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ORDER DISMISSING PETITION

On April 2, 2019, I issued an Order To Show Cause in the above-referenced matter as the petition filed on March 27, 2019, raised the question of whether the local bargaining unit located at 1675 Flatriver Road, Coventry, Rhode Island (herein the Coventry facility) has merged into a single nationwide bargaining unit subject to a national collective-bargaining unit.

Thereafter, the Union and the Petitioner submitted their responses to the Order To Show Cause which I have carefully reviewed.¹ The Union argues that the Coventry unit has been merged into an overall national bargaining unit and that the petition should be dismissed on this basis. Alternatively, the Union argues that the imminent cessation of the Employer's operations at the Coventry facility is cause for dismissal of the petition. The Petitioner asserts that the employees at the Coventry facility organized into a local bargaining unit and were merged into the national bargaining unit without adequate information from the Union and therefore the local

¹ The Employer did not submit a position statement in response to the Order To Show Cause.

“standalone” collective bargaining agreement should permit local decertification. The Petitioner further asserts that if Board law permits “mergers” into national bargaining units then this standard should be overruled.

Background:

On December 1, 2009, the Union² was certified as the exclusive collective-bargaining representative of employees in the following unit:

All full-time and regular part-time drivers, aides and monitors employed by the Employer at its 60 Wood Street, Coventry, Rhode Island facility, but excluding all other employees, dispatchers, mechanics, guards and supervisors as defined in the Act.

The Union and the Employer negotiated a collective-bargaining agreement with a term of April 1, 2010 through June 30, 2015, recognizing the Local Union as the bargaining representative for the above-mentioned unit³. Thereafter, the Local Union and the Employer negotiated a successor collective-bargaining agreement with a term of July 1, 2015 through June 30, 2020. Pursuant to this agreement, the unit, which presently includes approximately 110 employees, was slightly modified as follows:

All full-time and regular part-time bus drivers, mechanics and yard persons employed by the Company to provide transportation for the Coventry District but excluding dispatchers, office clerical employees, sales employees, guards, and supervisors as defined in the Act.

In the spring of 2009, local unions affiliated with the International Brotherhood of Teamsters (IBT) voted for the creation of a national bargaining committee to participate in company-wide bargaining and authorized the IBT to negotiate a national master agreement with the Employer. Subsequently, the Teamsters First Student National Negotiating Committee was

² Alternatively referred to as “Local 251.”

³ It is unknown exactly when the Employer moved its facility to 1675 Flatriver Road, Coventry, Rhode Island.

created, a national master contract was negotiated and the National Master First Student Agreement (Master Agreement) was presented to the constituent bargaining units for a ratification vote. On April 27, 2011, the IBT sent the tentative national agreement to all local unions, including Local 251, for review. In addition, on or about April 29, 2012, the IBT sent a newsletter to every member, which contained a notice about the new Master Agreement and the formation of a single nationwide bargaining unit. On May 11, 2011, the IBT sent ballot packages, including a copy of the tentative Master Agreement, to all members employed by the Employer, including Local 251 members.

On June 1, 2011, the Master Agreement was ratified. The parties formally executed it on June 11, 2011, and the agreement was effective from June 1, 2011 through March 31, 2015.

Article 2, Section 4 of the Master Agreement, titled “Single Bargaining Unit”, states in relevant part:

It is the intent of the parties that each of the groups of represented employees referenced in Appendix A will be governed by this National Agreement and applicable local agreements, supplements and/or riders...All employees covered by this National Agreement and the various local agreements, supplements and/or riders shall constitute one (1) bargaining unit.

The Employer’s Coventry, Rhode Island location is listed as an affected local union in Appendix A of the Master Agreement.

Upon expiration of the prior Master Agreement, the Employer and the Teamsters First Student National Negotiating Committee negotiated a successor Master agreement. On September 15, 2015, the IBT notified the local unions, including Local 251, that a tentative agreement had been reached and that ratification would be via mail ballot. On September 22, 2015, the IBT sent notification of the the ratification process to each of the local unions. On September 29, 2015, the IBT conducted a telephone conference call to discuss the successor

contract and the ratification process. IBT records show that 37 members of Local 251 participated in this call. On September 29, 2015, the IBT forwarded the mail ballots and informational flyers to members. As a result of the mail ballot process, the members voted to ratify the successor contract which is in effect from April 1, 2015 until March 31, 2020. The Local 251 tally of ballots shows 71 members voted in the ratification process, with a result of 61 yes votes and 10 no votes.

Article 2, Section 4 of the Master Agreement, titled “Single Bargaining Unit”, is identical to the provisions of the prior Master Agreement and the Employer’s Coventry, Rhode Island location is listed as a local union in Appendix A of the Master Agreement.

Discussion:

The Board has held that when an employer and a union agree to merge separately certified or recognized bargaining units into a single overall unit, a decertification petition seeking an election in the original separate unit is subject to dismissal, provided that the newly-created unit is appropriate. *Wisconsin Bell, Inc.*, 283 NLRB 1165, 1165-1166 (1987); *Albertson’s Inc.*, 307 NLRB 338 (1992). The Board’s position is based on the principle that a decertification election can only be held in a unit that is co-extensive with the existing certified or recognized unit. *Albertson’s Inc.*, supra, at 339; *Wisconsin Bell, Inc.*, supra, ; *General Electric Co.*, 180 NLRB 1094,1095 (1970).

The same issue as presented herein was also addressed in several similar decertification cases, *First Student, Inc.*, Case 04-RD-66924; *First Student, Inc.* 03-RD-091035; *First Student Inc.*, 13-RD-102567; and *First Student, Inc.* 15-RD-092716. In each of these cases, the petition sought to decertify another IBT local as the representative of employees in a single location unit. Relying on essentially the same facts as here, the Regional Directors of Region 3, 4, 13 and 15,

dismissed the petitions after concluding that the unit had been effectively merged into the nationwide bargaining unit and that the single-location unit was no longer appropriate. The Board has similarly denied review of the Regional Director's dismissal of a UD petition in Case 19-UD-077098. In this case, Board found that the Regional Director properly dismissed the UD petition which was limited to only the employees in the Employer's Fairbanks, Alaska, on the basis that the bargaining unit was a part of the same merged, nationwide bargaining unit. See *First Student Inc.*, 359 NLRB 279 (2012).

In the instant case, the Coventry facility has been merged into an overall national bargaining unit since 2011 following a vote of the membership ratifying the Master Agreement. The employees at issue in this case overwhelmingly ratified the successor Master Agreement as well. The Master Agreement unequivocally specifies that the employees covered by it and the various local agreements constitute one bargaining unit. The Petitioner does not dispute the creation of the nationwide bargaining unit but rather asserts that because the local collective bargaining agreement does not reference the Master Agreement, the decertification should be permitted to proceed. However, the lack of specificity in the local agreement does not serve to remove the Coventry unit from the Master Agreement. Accordingly, the petitioned-for separate unit is not co-extensive with the existing recognized unit and is therefore not appropriate .

Inasmuch as I have determined that the unit in which the decertification vote is sought is not coextensive with the existing recognized unit and I am dismissing the petition, there is no need to address Local 251's alternative contention that the petition should be dismissed because the First Student will no longer be providing bus services in Coventry, Rhode Island effective June 30, 2019.

IT IS HEREBY ORDERED that the decertification petition is dismissed, and that the Notice of Hearing issued in this matter is withdrawn.

RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 14 days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to www.nlrb.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Dated: April 15, 2019



Paul J. Murphy, Acting Regional Director
National Labor Relations Board
Region 01, Subregion 34